

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *JE* D.C.

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REBECCA H. TREACE,

Plaintiff,

v.

UNUM LIFE INSURANCE COMPANY  
OF AMERICA,

Defendant.

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No. 03-2409 M1/P

THOMAS H. GOULD  
CLERK, U.S. DISTRICT COURT  
W.D. OF TENNESSEE

ORDER DENYING MOTION FOR RELIEF FROM SCHEDULING ORDER TO EXTEND  
THE DEADLINE TO FILE A DISPOSITIVE MOTION  
AND DENYING MOTION FOR RELIEF FROM SCHEDULING ORDER TO RE-OPEN  
THE DEPOSITION OF PLAINTIFF

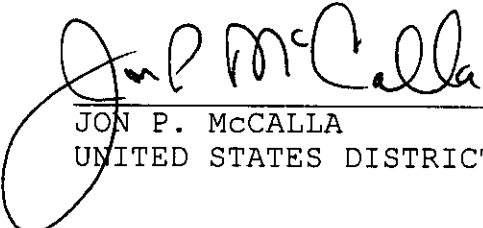
Before the Court is Defendant's Motion for Relief from Scheduling Order to Extend the Deadline to File a Dispositive Motion, and Defendant's Motion for Relief from Scheduling Order to Re-open the Deposition of Plaintiff, both filed September 2, 2005. Plaintiff filed its memorandum in opposition on September 19, 2005. For the following reasons, the Court DENIES both motions.

Defendant moves the Court for relief from the scheduling order so that it may submit a motion for summary judgment regarding Plaintiff's Tennessee Consumer Protection Act (TCPA) and misrepresentation claims. The Court has already denied Defendant's motions for summary judgment as to the TCPA claim in its Order Granting in Part and Denying in Part Defendant's Motion

for Summary Judgment and Order Denying Plaintiff's Motion for Partial Summary Judgment, entered March 21, 2005. In that same order, the Court noted that Defendant had not timely moved for summary judgment regarding Plaintiff's misrepresentation claim. (Id. 6 n.1.) Subsequently, the Court struck Defendant's late-filed Supplemental Memorandum in Support of Defendant's Motion for Summary Judgment in which Defendant challenged Plaintiff's misrepresentation claim. (Order Regarding Motions in Limine, Docket No. 259.) The Court has already decided this issue and will not reconsider it on the eve of trial. Accordingly, Defendant's Motion for Relief from Scheduling Order to Extend the Deadline to File a Dispositive Motion is DENIED.

Defendant also moves for relief from the scheduling order to re-open its deposition of Plaintiff. The Court's scheduling order provides that non-expert depositions be conducted by August 20, 2004. (Order Granting Pl.'s Mot. Modification of Order Granting Pl.'s Mot. Modification of Scheduling Order, Docket No. 58.) The Court later re-opened discovery until November 8, 2005 in response to discovery abuses by Defendant. (Order Adopting as Amended Magistrate Judge's May 27, 2005, Report and Recommendation, Docket No. 260.) The Court finds Defendant's request to re-open its deposition of Plaintiff unwarranted, and accordingly DENIES Defendant's Motion for Relief from Scheduling Order to Re-open the Deposition of Plaintiff.

So ORDERED this 9 day of November, 2005.

  
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JON P. McCALLA  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 300 in case 2:03-CV-02409 was distributed by fax, mail, or direct printing on November 14, 2005 to the parties listed.

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Honorable Jon McCalla  
US DISTRICT COURT